



Office of the Attorney General  
State of Texas

October 30, 1996

DAN MORALES  
ATTORNEY GENERAL

Mr. Robb D. Catalano  
Assistant City Attorney  
Municipal Building  
Dallas, Texas 75201

OR96-1995

Dear Mr. Catalano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101532.

The City of Dallas (the "city") received a request for "the arrest warrant and any supporting affidavits" involving an alleged sexual assault. You claim that the information is excepted from disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.<sup>1</sup>

We note initially that the arrest warrant and its supporting affidavits may have been filed with a court. Documents filed with a court are generally considered public. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992). Because the documents may not have been filed with a court, we will address your arguments against disclosure under the Open Records Act.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *See* Open Records

---

<sup>1</sup>It appears that you have submitted several documents which are not responsive to the request, for example the offense report. This ruling only addresses the disclosure of any documents responsive to this specific request for information.

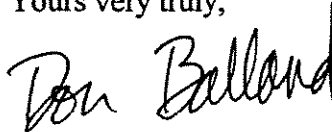
Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

Because the offense report contains information about an alleged sexual assault, however, certain front page offense report information is excepted from disclosure under section 552.101. In sexual assault cases, section 552.101 of the Government Code excepts from public disclosure certain information that is not normally excepted under section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy. The doctrine of common-law privacy protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person *and* the public has no legitimate interest in it. *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 339 (1982) we concluded that a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify them. *See also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, *writ denied*) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information).

We conclude that under section 552.101 you must withhold from disclosure information that would identify the victim of the alleged sexual assault. You must release all other information that is generally found on the front page of an offense report, but may withhold the remainder of the information under section 552.108. *See Star Telegram, Inc. v. Doe*, 915 S.W.2d 471, 474-475 (Tex. 1995).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 101532

Enclosures: Submitted documents

cc: Mr. J. Michael Price, II  
Milner, Lobel, Goranson, Sorrels, Udashen & Wells  
2515 McKinney Avenue, Suite 1500  
Dallas, Texas 75201  
(w/o enclosures)